

RECEIVED  
CENTRAL FAX CENTER

## FACSIMILE TRANSMITTAL SHEET

DEC 06 2004

Today's Date: December 6, 2004

Time:

Employee ID:

#1 of 7 Pages

From: William C. Geary III

Direct Dial: 617-439-2766

Fax No: 617-310-9766

RECIPIENT	COMPANY	FAX NO.	PHONE NO.
Examiner MIKE PEFFLEY	USPTO	703-872-9306	

## COMMENTS:

## Certificate of Facsimile Transmittal (37 C.F.R. 1.8(a))

I hereby certify that this correspondence is being deposited via Facsimile No. 703-872-9306, to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date set forth below.

Dated: December 6, 2004

Signature:

(William C. Geary III)

In re Application of: Albert S. Lee et al.

Application No.: 09/824,625

Filed: April 2, 2001

For: METHODS AND APPARATUS FOR  
THERMALLY AFFECTING TISSUES

Notice of Allowance

Dated: October 4, 2004

Group Art Unit: 3739

Examiner: M. F. Peffley

Please see the attached Communication together with a copy of a previously submitted Information Disclosure Statement and a return postcard date-stamped by the United States Patent and Trademark Office for the above referenced patent application.

## STATEMENT OF CONFIDENTIALITY

The documents included with this facsimile transmittal sheet contain information from the law firm of Nutter McClennen & Fish LLP which is confidential and/or privileged. The information is intended to be for the use of the addressee named on this transmittal sheet. If you are not the addressee, note that any disclosure, photocopying, distribution or use of the contents of this faxed information is prohibited. If you have received this facsimile in error, please notify us by telephone (collect) immediately so that we can arrange for the retrieval of the original documents at no cost to you.

IF THERE IS A PROBLEM WITH THIS TRANSMISSION, OR IF YOU DID NOT RECEIVE ALL PAGES,  
PLEASE CALL 617-439-2676, AS SOON AS POSSIBLE

FOR NUTTER MCLENNEN &amp; FISH LLP USE ONLY

Client-Matter No. 22727-66

Nutter McClennen &amp; Fish LLP ■ Attorneys at Law

World Trade Center West ■ 155 Seaport Blvd. ■ Boston, MA 02210-2804 ■ 617-439-2000 ■ Fax: 617-310-9000 ■ www.nutter.com

PAGE 1/7 \* RCVD AT 12/6/2004 3:25:06 PM [Eastern Standard Time] \* SVR:USPTO-EFAXRF-1/3 \* DNIS:8729306 \* CSID:01116173109000 \* DURATION (mm-ss):02-08

Certificate of Facsimile Transmittal (37 C.F.R. 1.8(a))

I hereby certify that this correspondence is being deposited via Facsimile No. 703-872-9306, to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date set forth below.

Dated: December 6, 2004

Signature: 

(William C. Geary III)

Docket No.: 022727-0066

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of: Albert S. Lee et al.

Application No.: 09/824,625

Filed: April 2, 2001

For: **METHODS AND APPARATUS FOR  
THERMALLY AFFECTING TISSUES**

Notice of Allowance

Dated: **October 4, 2004** RECEIVED  
CENTRAL FAX CENTER

Group Art Unit: 3739

DEC 06 2004

Examiner: M. F. Peffley

**COMMUNICATION**

Attn: Examiner M. Peffley  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants respectfully request that the Examiner acknowledge that the references cited in the Information Disclosure Statement (IDS) filed on January 9, 2001 were considered during prosecution of the above-referenced patent application and that the references be made of record therein and appear among the "References Cited" on any patent to issue therefrom. A copy of the IDS, PTO/SB/08A (2 pages) as filed on January 9, 2002 and the return postcard date-stamped by the U.S. Patent and Trademark Office is enclosed for the Examiner's convenience.

Pursuant to a telephone conversation today between the Examiner and the undersigned Attorney, Applicants respectfully request that the Examiner fax a copy of the initialed 1449 form to the undersigned attorney for Applicant.


Please call the undersigned attorney with any questions.

Date: December 6, 2004

NUTTER MCCLENNEN & FISH LLP  
World Trade Center West  
155 Seaport Boulevard  
Boston, Massachusetts 02210-2604

Tel.: (617) 439-2000  
Fax: (617) 310-9766

Respectfully submitted,

By   
William C. Geary III  
Registration No.: 31,359  
Attorney for Applicant

Atty Docket No.: 22727-66

Inventor: Albert S. Lee et al.

Application No.: 09/824,625-8907 Filing Date: April 2, 2001

Title: Methods and Apparatus For Thermally Affecting Tissue

The Following, DUE \_\_\_\_\_ In the U.S.P.T.O., was received in Mail Room on the date stamped hereon:

## Documents Filed:

Inf. Disc. Statement, PTO Form PTO/88/08 and a copy of the References Cited Therein

Copy of International Search Report

Cert. of Mailing under 37 CFR 1.8 (a)



Sender's Initials: HAN/paf

Date:

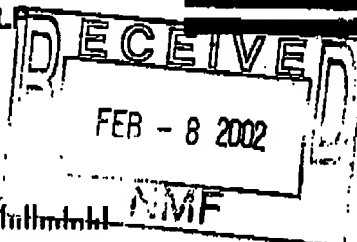
January 9, 2001

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

## BUSINESS REPLY MAIL

FIRST-CLASS MAIL PERMIT NO. 25384 BOSTON MA

POSTAGE WILL BE PAID BY ADDRESSEE

NUTTER MCLENNEN & FISH LLP  
PO BOX 1400  
BOSTON MA 02205-8960

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, Washington, DC 20231, on the date shown below.

Dated: 1-9-02

Signature:   
(Herbert A. Newborn)Docket No.: 022727-0066  
(PATENT)**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Albert S. Lee, et al.

RECEIVED  
CENTRAL FAX CENTER

Application No.: 09/824,625-8907

Group Art Unit: 3762

DEC 06 2004

Filed: April 2, 2001

Examiner: Not Yet Assigned

For: METHODS AND APPARATUS FOR  
THERMALLY AFFECTING TISSUE

**INFORMATION DISCLOSURE STATEMENT (IDS)**

Commissioner for  
Patents  
Washington, DC 20231

Dear Sir:

Pursuant to 37 CFR 1.56, the attention of the Patent and Trademark Office is hereby directed to the references listed on the attached PTO/SB/08. It is respectfully requested that the information be expressly considered during the prosecution of this application, and that the references be made of record therein and appear among the "References Cited" on any patent to issue therefrom.

This Information Disclosure Statement is filed before the mailing date of a first Office Action on the merits as far as is known to the undersigned.

A copy of an International Search Report and a copy of each reference on PTO/SB/08 is attached.

While the information and references disclosed in this Information Disclosure Statement may be "material" pursuant to 37 CFR 1.56, it is not intended to constitute an

Application No. 09/824,625-8907

2

Docket No. 022727-0066

admission that any patent, publication or other information referred to therein is "prior art" for this invention unless specifically designated as such.

In accordance with 37 CFR 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 CFR 1.56(a) exists. It is submitted that the Information Disclosure Statement is in compliance with 37 CFR 1.98 and the Examiner is respectfully requested to consider the listed references.

The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 141449, under Order No. 022727-0066. A duplicate copy of this paper is enclosed.

Dated: Jan. 9, 2002

Respectfully submitted,

By Herbert A. Newborn

Herbert A. Newborn

Registration No.: 42,031

NUTTER, MCLENNEN & FISH, LLP

One International Place

Boston, Massachusetts 02110-2699

(617) 439-2407

Attorneys for Applicant

1022852.1

Please type a plus sign (+) inside this box 

PTO/SB/08B (08-00)

Approved for use through 10/31/2002, OMB 0851-0031

U. S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449/PTO		<b>Complete If Known</b>	
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (use as many sheets as necessary)		Application Number	09/824,625-8907
		Filing Date	April 2, 2001
		First Named Inventor	Albert S. Lee
		Group Art Unit	3762
		Examiner Name	Not Yet Assigned
Sheet	1	of	2
		Attorney Docket Number	022727-0066

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY
		Number	Kind Code <sup>2</sup> (if known)		
	A	3,320,414		Bowland	05-16-1967
	B	3,604,674		Swenson et al	04-07-1970
	C	3,736,936		Basilius et al	08-05-1973
	D	3,776,241		Magilton et al	12-04-1973
	E	3,897,790		Magilton et al	08-05-1975
	F	4,207,897		Lloyd et al	06-17-1980
	G	4,781,193		Pagden et al.	11-01-1988
	H	5,207,674		Hamilton	05-04-1993
	I	5,304,214		DeFord et al	04-19-1994
	J	5,306,319		Saito et al	01-10-1996
	K	5,429,582		Williams	07-04-1996
	L	5,474,593		Ward et al	12-12-1995
	M	5,531,776		Ward et al	07-02-1998
	N	5,540,711		Kieturakis et al	07-30-1996
	O	5,607,443		Kieturakis et al	03-04-1997
	P	5,611,767		Williams	03-18-1997
	Q	5,524,392		Saab	04-29-1997
	R	5,643,207		Rise	07-01-1997
	S	5,716,396		Ward et al	02-10-1998
	T	5,730,756		Kieturakis et al	03-24-2001
	U	5,772,680		Kieturakis et al	06-30-1998
	V	5,817,123		Kieturakis et al	10-06-1998
	W	5,871,498		Jervis et al	02-16-1999
	X	5,916,212		Baust et al	06-29-1999
	Y	5,916,242		Schwartz	06-29-1999
	Z	5,957,863		Dobak, III	09-28-1999
	AA	6,004,337		Kieturakis et al	12-21-1999
	AB	6,015,382		Zwart et al	01-18-2000
	AC	6,015,421		Echeverry et al	01-18-2000
	AD	6,022,308		Williams	02-08-2000
	AE	6,045,532		Eggers et al	04-04-2000
	AF	6,051,019		Dobak, III	04-18-2000
	AG	6,073,051		Sharkey et al	06-06-2000
	AH	6,083,148		Williams	07-04-2000
	AI	6,096,068		Dobak, III et al.	08-01-2000
	AJ	6,129,738		Jervis et al	10-10-2000
	AK	6,132,415		Finch et al	10-17-2000
	AL	6,168,608 B1		Echeverry et al	01-02-2001
	AM	6,224,624 B1		Lasheras et al.	05-01-2001
	AN	6,238,428 B1		Werneth et al.	05-29-2001
	AO	6,251,129 B1		Dobak, III et al.	06-26-2001
	AP	6,251,130 B1		Dobak, III et al	06-26-2001

Please type a plus sign (+) inside this box



PTO/SB/083 (08-00)

Approved for use through 10/31/2002 OMB 0861-0031

U. S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A/PTO		<b>Complete if Known</b>	
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (use as many sheets as necessary)		Application Number	09/824,825-8907
		Filing Date	April 2, 2001
		First Named Inventor	Albert S. Lee
		Group Art Unit	3782
		Examiner Name	Not Yet Assigned
Sheet	2	of	2
		Attorney Docket Number	022727-0088

FOREIGN PATENT DOCUMENTS					
Examiner Initials	Cite No. <sup>1</sup>	Foreign Patent Document Country Code <sup>2</sup> , Number <sup>3</sup> , Kind Code <sup>4</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	AQ	WO 99/34758	07/15/1999	Lesser et al.	

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See attached Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 801.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the application number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS				
Examiner Initials	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc), date, page(s), volume-issue number(s), publisher, city and/or country where published.		
	AR	Fay, T. "Early Experiences with Local and Generalized Refrigeration of the Human Brain," <i>J. Neurosurg.</i> , 16:239-60(1959).		
	AS	Connolly, J.E., et al., "The Protective Effect of Hypothermia in Cerebral Ischemia: Experimental and Clinical Application by Selective Brain Cooling in the Human," <i>Surgery</i> , 71:15-24(1962).		
	AT	Kindt, G.W. and Youmans, J.R., "Regional Hypothermia Produced by Cooling the Blood within the Intact Artery," <i>Surgical Forum</i> , 17:408-7(1966).		
	AU	Locke, G.E., et al., "Profound Selective Arterial Cooling of Brain without Pump or Oxygenator," <i>Surgical Forum</i> , 16:421-22 (1966).		
	AV	Negrin, J., "The Hypothermostat: An Instrument to Obtain Local Hypothermia of the Brain or Spinal Cord," <i>International Surgery</i> , 54(2):93-106(1970, Aug).		

Examiner Signature		Date Considered	
--------------------	--	-----------------	--

<sup>1</sup>EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup>Unique citation designation number. <sup>2</sup>Applicant is to place a check mark here if English language Translation is attached